

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In Re:

**Jesse Charles Lay**

Case No. 10-80953

Chapter 13

Soc. Sec. No. xxx-xx-2665

Mailing Address: 500 Guy Walker Lane, Durham, NC 27703-

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Debtor

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**MOTION TO MODIFY PLAN**

**NOW COMES the Debtor**, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on May 28, 2010, with the Chapter 13 plan being subsequently confirmed on October 19, 2010.
2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:  
  
From: \$2,519.00 per month  
  
To: \$2,519.00 per month through June, 2010, followed thereafter by \$2,623.00 per month, starting in June, 2011.
3. The changed circumstances that justify the proposed modification are as follows:
  - a. Due to surrender of rental property, Debtor will no longer be receiving rental income.
  - b. Change in dividend to unsecured creditors.
4. Amended Schedules I and J will be filed concurrently herewith.
5. To facilitate the proposed modification, the Debtor hereby surrenders any interest he may have in collateral securing the following claims:

Creditor and Claim No.	Collateral
Citimortgage (claim no.1)	2508 Dakota Street, Durham NC 27707

6. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325.

**Appended Application for an Additional Attorney Fee**

7. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify, including, without limitation, the following:
- a. Calls from and to the Debtor to discuss changes in his situation which necessitate this motion, to explain the procedures and requirements involved, and to advise the Debtor accordingly; and
  - b. Contact with the Trustee's office concerning the proposed modification; and
  - c. Re-evaluating and recalculating the Chapter 13 plan in this case; and
  - d. Drafting this Motion and Certificate of Service; and
  - e. Service of the Motion on all interested parties, which includes all creditors scheduled in this case, at the expense of the undersigned law firm; and
  - f. Filing of the Motion; and
  - g. Prospective attendance with Debtor at the hearing upon the motion, if any; and
  - h. Prospective drafting and filing of the proposed Order and Deputy Clerk's Certificate of Service; and
  - i. Prospective follow-up instructions to client, as will be necessary, following the granting of this motion.

These services were not taken into account in the contract for legal services entered into between the undersigned and the Debtor.

WHEREFORE, the Debtor prays that this Court grant his Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: June 29, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Koury Hicks

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Koury Hicks  
North Carolina State Bar No.: 36204  
6616-203 Six Forks Road  
Raleigh, N.C. 27615  
(919) 847-9750

## CERTIFICATE OF SERVICE

I, Koury Hicks, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on June 30, 2011, I served copies of the foregoing **MOTION TO MODIFY PLAN** by regular first-class U.S. mail or by electronic servicing when appropriate, addressed to the following parties:

Richard M. Hutson, II  
Chapter 13 Trustee  
P.O. Box 3613  
Durham, N.C. 27702-3613

Michael West  
U.S. Bankruptcy Administrator  
P.O. Box 1828  
Greensboro, N.C. 27402-1828

Jesse Charles Lay  
500 Guy Walker Lane,  
Durham, NC 27703-

Citimortgage  
Attn: Managing Agent  
P.O. BOX 6941  
The Lakes, NV 88901-

Matthew McKee  
Attorney At Law  
Rogers Townsend & Thomas, P.C  
2550 W. Tyvola Rd.  
Charlotte, NC 28217-

All creditors with duly filed claims as listed on the Trustee's website.

/s Koury Hicks  
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Koury Hicks